

Exhibit B – Supplement

USDOJ ASSESSMENT OF PRPD COMPLIANCE DURING THE CAPACITY-BUILDING PERIOD

May 19, 2017

This brief assessment is based on a review of semiannual reports from the Technical Compliance Advisor (TCA), self-reports from the Puerto Rico Police Department (PRPD), and the observations of attorneys and staff of the United States Department of Justice (USDOJ). PRPD has made steady progress implementing its Action Plans during the first three years of the capacity-building period, which began with the appointment of the TCA in June 2014. Much of this progress focuses on the development of new policies and training. Significant work remains to ensure that PRPD has sufficient administrative and operational capacity to comply successfully with the Agreement for the Sustainable Reform of the Puerto Rico Police Department (Reform Agreement). The compliance assessment below includes a non-exhaustive list of activities that PRPDP should complete during the remaining year of the capacity-building period.

1. Professionalization

Under the Professionalization Action Plan, PRPD agreed to develop new policies and procedures, conduct related training, complete a staffing and resource allocation study, establish a promotions board, and complete various self-evaluation activities.

PRPD has completed the five policies, procedures, and regulations required by the Action Plan. PRPD has also submitted a work plan to the Parties and the TCA on the staffing and resource allocation study. PRPD will need to review and revise these policies, as appropriate, in light of Law 20 of 2017. PRPD has also reported progress on training related to these policies and procedures. PRPD drafted and received approval of descriptions of the duties for each of the

uniformed ranks in its force. PRPD also developed a suite of promotion examinations in consultation with the TCA.

During the capacity-building period, PRPD should complete the following activities:

- *Staffing Allocation and Resource Study:* PRPD has identified a firm and subject-matter expert to complete the staffing allocation and resource study. PRPD needs to launch the study to place the agency in a position to achieve its capacity-building goals. The study should identify the appropriate number of sworn and civilian personnel to perform the various functions necessary to fulfill PRPD's mission, including patrol, administrative investigations, criminal investigations, and special operations.
- *Review of Promotions:* The TCA found evidence that the promotion process lacks uniformity, remains subjective, and may be biased. PRPD has begun a review of 235 promotion files in response to the TCA's findings.¹ .
- *Reforms to Transfer Procedures:* The TCA found evidence that the transfer process lacks internal controls and may be biased. PRPD is evaluating its transfer procedures in response to the TCA's findings.

2. Use of Force

Under the Use of Force Action Plan, PRPD agreed to develop new policies and procedures, establish a data collection and force reporting system, implement a force review and investigation process, conduct related training, develop a specialized response to persons in mental health crisis, and complete various self-evaluation activities.

PRPD has completed significant policy development in this area. This includes policies on use of force, force reporting, force investigations and reviews, specialized tactical units, crisis intervention, and crowd control. PRPD reports extensive training on many of these policies. As early as 2015, PRPD began to implement force management procedures designed to reduce unwarranted force and comply with the Reform Agreement. A use of force report form is widely circulated within the agency, and force is often being reported. A Force Investigation Unit is

¹ Power Point presentation by Superintendent Fraley (Feb. 16, 2017) (sent by Neldys Cruz Nieves).

assigned to investigate serious uses of force. Supervisory Review Boards have reviewed, at a minimum, selections of force reviews.

During the capacity-building period, PRPD should complete the following activities:

- *Establish reliable data collection and analysis systems:* PRPD's status reports have included data on use of force that is inconsistent and incomplete. PRPD should implement a reliable record management system to track uses of force and monitor force reviews and investigations. PRPD should use these systems to produce accurate and periodic public reports on use of force.
- *Ensure consistent force reporting and quality force investigations:* PRPD's evaluation of the force reporting process has been limited to the number of incomplete reports that are returned through the chain-of-command. It appears that very little analysis has taken place to determine whether officers are reporting force accurately and whether supervisors and commanders are conducting adequate force investigations.
- *Evaluate the activation and deployment of specialized tactical units:* PRPD must ensure the proper activation and deployment of specialized tactical units to promote the safe resolution of high-risk situations and prevent over-reliance on these units for general patrol.
- *Evaluate crowd control practices:* PRPD has completed its crowd control and incident management policy. PRPD also reports that it has restructured its Tactical Operations Division and conducted extensive training on crowd control.
- *Implement PRPD's specialized response to persons in mental health crisis:* PRPD has completed its policy on crisis intervention teams. PRPD will need to ensure that adequate training is developed and implemented with the assistance of mental health professionals, assess the need for specialized responses by PRPD, and deploy a sufficient number of trained officers to meet those needs.

3. Searches and Seizures

PRPD agreed to develop policies and procedures, establish a comprehensive data collection system, implement a supervisory review process, conduct related training, establish criminal justice committees to solicit feedback, and complete various self-evaluation activities, as part of its Search and Seizure Action Plan.

PRPD has submitted all of the policies in its Action Plan to the TCA and USDOJ for review and approval. Some of these policies are undergoing an annual review. PRPD also began offering training on critical policies involving searches, arrests, and evidence retention.

During the capacity-building period, PRPD should complete the following activities:

- *Ensure sufficient staffing to provide effective supervision:* The Reform Agreement requires that supervisors oversee officers' discretionary law enforcement activities, such as traffic and pedestrian stops. Supervisors must also respond to the scene of certain arrests. The staffing allocation and resource study should result in a staffing plan that will assign sufficient numbers of supervisors to the field to complete these tasks and oversee the execution of arrest and search warrants.
- *Complete the data collection and analysis system:* The Reform Agreement requires that PRPD develop a data collection and analysis system to track PRPD's performance related to stops, searches, and arrests. This system will also help PRPD assess for potential bias in law enforcement activities and programs.
- *Continue to reform specialized investigative units, including the Drug Division:* PRPD has developed a new policy to govern the operation and structure of these units. Additional work remains to ensure that sufficient internal controls, accountability measures, and oversight are in place to effectively manage these units and ensure that they protect civil rights as they carry out their important mission.
- *Complete improvements to evidence handling, retention, and storage:* PRPD should continue to make improvements to its evidence handling, retention, and storage policies and practices. This includes establishing appropriate safeguards to collect and preserve evidence that maintains the integrity of criminal investigations.

4. Equal Protection and Non-Discrimination

Under the Equal Protection and Non-Discrimination Action Plan, PRPD agreed to develop policies and procedures, conduct related training, establish a comprehensive data collection system, and complete various self-evaluation activities.

PRPD has completed or is finalizing many policies required by the Equal Protection Action Plan, including those on collection and reporting of crime data, hate crimes, interactions with non-citizens, interactions with transgender or transsexual individuals, interactions with minors and the investigation of abuse allegations in juvenile institutions, and a suite of policies

governing PRPD's response to, and investigation of, domestic violence and sexual assault.

PRPD also reports extensive training in these areas.

During the capacity-building period, PRPD should complete the following activities:

- *Ensure that regulations on workplace discrimination, harassment, and retaliation are consistent with Title VII of the Civil Rights Act:* The United States has identified continuing concerns with PRPD's regulations related to Title VII. The United States plans to utilize the dispute resolution process to resolve these concerns.
- *Improved Reporting on Training Progress:* Neither PRPD nor the TCA has provided the Court or the United States with a sufficient record on PRPD's compliance with the training objectives of its Equal Protection and Non-Discrimination Action Plan. PRPD reports statistics on training related to one equal protection policy: Interaction with transgender or transsexual individuals. Neither the TCA nor PRPD reported on the quality or quantity of training on other equal protection topics in their most recent reports.
- *Evaluate Specialized Responses to Gender-Based Violence:* PRPD has taken some steps to implement the new practices it has adopted in the area of equal protection. For instance, PRPD launched a confidential sexual assault hotline in October 2016.² Neither the TCA nor PRPD has provided a comprehensive report on PRPD's work in this area, however, and reporting has generally been sparse.

5. Recruitment, Selection, and Hiring

Under the Recruitment, Selection, and Hiring Action Plan, PRPD agreed to develop policies and procedures, conduct related training, designate a Recruitment Officer, develop informational materials and brochures, implement a public recruitment campaign, implement adequate evaluation and background investigations, and complete various self-evaluation activities.

PRPD has completed policies on recruitment and selection boards for new recruits.

PRPD has agreed to review and revise its policies and procedures related to undercover operations, including the recruitment of undercover officers. PRPD will need to review and

² Fifth PRPD Progress Rep., at 6-7.

revise all of its policies related to recruitment, selection, and hiring, as appropriate, in light of Law 20 of 2017. PRPD reported during the February 2017 Public Hearing that it plans to seek authority to hire approximately 300 new cadets in Fiscal Year 2017-18.

During the capacity-building period, PRPD should complete the following activities:

- *Modernize the recruitment process:* PRPD should seek efficiencies in its recruitment program, including automation of the application, testing, and selection process.
- *Ensure that background investigations and selection devices comport with generally-accepted policing practices:* PRPD uses various assessment tools and selection devices to hire new recruits. PRPD should review the quality of background investigations to ensure that they are thorough, timely, and objective.

6. Policies and Procedures

Under the Policies and Procedures Action Plan, PRPD agreed to develop policies and procedures, conduct related training, establish mechanisms to notify officers and external stakeholders about new policies, conduct monthly meetings to orient officers on new policies, and conduct various self-evaluation activities.

PRPD has made remarkable progress in the development of new policies and procedures through the Reform Office. PRPD has revised and created new policies across the eleven substantive areas of the Reform Agreement, including 15 policies, manuals, and regulations in this section. PRPD should review and revise these policies, as necessary, in light of Law 20 of 2017.

During the capacity-building period, PRPD should complete the following activities:

- *Ensure sustainability of the policy development process:* PRPD should determine whether policy development should remain in the Reform Office or whether other options are available to ensure consistent and professional development of policies beyond the capacity-building period.
- *Update the policy review process:* The United States will continue to work with Puerto Rico to update the policy review process under Paragraph 229 to ensure that the Parties

have sufficient time to exchange information, provide technical assistance, and incorporate feedback from the Parties and the TCA.

7. Training

PRPD agreed to develop policies and procedures, develop a pre-service training program, develop a field training program, develop an in-service training program, implement a records management system, and complete various self-evaluation activities, as part of its Training Action Plan.

PRPD achieved its first major training milestone when it trained all federal task force officers in core areas of the Reform Agreement by June 2015. PRPD will face its second major milestone next month, in June 2017, when it is required to train 50% of its officers in core areas related to use of force; searches and seizures; equal protection; civilian complaints, internal investigations, and discipline; community engagement; and public information. This means that PRPD must train approximately 6,700 officers on these core policies. In December 2016, PRPD published agency-wide data regarding its trainings on nine policies. PRPD's statistics reflect that more than 50% of officers have been trained on six of these policies: use of force; use of batons, electronic control weapons, and chemical spray; arrests and citations; and the agency's code of ethics.

PRPD has conducted trainings on additional policies, including domestic violence and information technology topics. PRPD reports that it has developed syllabi for still more trainings, including nine additional use of force-related topics. PRPD has made significant progress professionalizing and improving the Police Academy by upgrading infrastructure, recruiting qualified instructors, outfitting living quarters, and conducting comprehensive pre-service training and firearms certification, among other efforts.

Notwithstanding the overall success of PRPD's policy development initiative, some policies have not been finalized consistent with the deadlines in the Action Plans, pushing back the development of corresponding trainings. At the same time, the TCA should more rigorously document PRPD's training progress, including the findings of the TCA's reviews and verification of the number of PRPD personnel who have been trained. The TCA should also assess the steps taken by PRPD to address situations when officers do not complete training, fail to qualify for certain assignments or weapons, or do not pass required courses.

During the capacity-building period, PRPD should complete the following activities:

- *Review the training development process:* PRPD should provide more comprehensive reports of its training progress, including statistics on the number of officers certified, to enable the TCA and USDOJ to assess its progress against the Reform Agreement's interim milestones.
- *Ensure sustainability of the training development and implementation process:* PRPD should ensure that the training development and implementation process is sustained in light of Law 20 of 2017 and the creation of the Department of Public Safety.
- *Ensure safe facilities for firearm training and qualification:* PRPD should ensure that shooting ranges and other firearm training facilities are safe and appropriate.
- *Implement adequate record management systems:* PRPD should implement an integrated record management system to permit ready-access to accurate, current, and complete training data.

8. Supervision and Management

Under the Supervision and Management Action Plan, PRPD agreed to develop policies and procedures, conduct related training, establish systems for data collection and analysis, develop an early intervention system, and complete various self-evaluation activities.

PRPD completed policies and other guidance on supervisor duties, performance evaluations, the early identification system, and agency audits and inspections. PRPD will need to review these materials in light of Law 20 of 2017. PRPD has also developed a training course

for new supervisors and has agreed to establish a new center for leadership training and education.

During the capacity-building period, PRPD should complete the following activities:

- *Ensure adequate field supervision:* The Reform Agreement includes staffing ratios to ensure an appropriate span of control in the field when the capacity-building period comes to an end.
- *Establish an executive-level criminal justice liaison committee:* PRPD should continue its efforts to establish an executive-level liaison committee comprised of the various agencies involved in the criminal justice system in Puerto Rico to provide feedback and support to PRPD.
- *Continue building the early intervention system:* Completion of the early intervention system will require sustained effort and investments in technology and training. PRPD should continue building its early intervention system through the capacity-building period and test its implementation in the Zones of Excellence. Appropriate training should also be developed for supervisors to ensure that the system is used effectively to manage risk and address potential problems in officer behavior at an early stage.

9. Civilian Complaints, Internal Investigations and Discipline

Under the Civilian Complaints, Internal Investigations, and Discipline Action Plan, PRPD agreed to develop policies and procedures, conduct related training, implement a records management system, digitize documents, develop a public information program on civilian complaints, establish an employee assistance and support program for officers, ensure sufficient staffing to complete administrative investigations, and conduct various self-evaluation activities.

PRPD has completed most of its policies, procedures, and regulations related to this area of the Reform Agreement. PRPD should complete its *Garrity* protocols in conjunction with the Puerto Rico Department of Justice (PRDOJ). PRPD has also developed a widely-publicized program on civilian complaints and has expanded opportunities for members of the public to submit both complaints and commendations to PRPD.

During the capacity-building period, PRPD should complete the following activities:

- *Implement an automated record management system:* PRPD is still transitioning to an automated record management system. PRPD should continue these efforts to ensure accurate, current, and complete information is readily accessible to supervisors, internal investigators, and commanders. PRPD should also resolve its backlog of investigations to ensure that officers' complaint histories are complete and current.
- *Resolve the burden of proof discrepancy with CIPA:* PRPD and the Commission on Investigations, Processing, and Appeals (CIPA, by its Spanish acronym) apply different standards of proof to internal investigations, causing significant problems in the proper adjudication of complaints.
- *Complete Garrity protocols:* PRPD should continue working with PRDOJ and other necessary entities, such as the Special Investigations Bureau, to complete its protocols on parallel proceedings. PRPD should also review its referral and consultation procedures when handling misconduct allegations that involve potential criminal violations to ensure that they are functioning properly.
- *Assess staffing needs:* PRPD should assess its staffing needs both at the Auxiliary Superintendency for Professional Responsibility and the Legal Affairs Office to ensure that internal investigations are completed within established timeframes in the Reform Agreement.
- *Implement the Employee Assistance Program:* PRPD should continue to implement its employee assistance programs to ensure officers have necessary supports and services available to promote their health and wellbeing. PRPD should also take steps to allocate responsibilities adequately among healthcare professionals who are responsible for direct care services and risk assessment.

10. Community Engagement and Public Information

PRPD agreed to develop policies and procedures, conduct related training, complete the staffing study to support community policing, establish civilian interaction committees in each police area, collect data, and complete various self-evaluation activities, as part of its Community Engagement and Public Information Action Plan.

PRPD has developed all of its policies in this area of the Reform Agreement. PRPD has also developed training for PRPD and the Civilian Interaction Committees. PRPD has made commendable progress in informing the public about the Reform Agreement through its

community engagement programs, though additional work remains, as evidenced by the TCA's community survey in 2016. Greater efforts should be made to increase transparency through the dissemination of public reports on use of force, community policing partnerships, internal audits, and other areas of the Reform Agreement. Continuing challenges remain to ensure that the Civilian Interaction Committees are working to their full potential in accordance with the Reform Agreement.

During the capacity-building period, PRPD should complete the following activities:

- *Ensure Civilian Interaction Committees have sufficient guidance and support:* Members of the Civilian Interaction Committees have expressed confusion and frustration concerning their role and responsibilities under the Reform Agreement, despite PRPD's efforts to provide training to all members last year. PRPD recently certified to the Court that it provided additional training and orientation to these community volunteers.
- *Continue to promote community policing as a shared responsibility among all members of PRPD:* PRPD should continue to advance community policing as a philosophy among all ranks to ensure that it is not relegated to a single program or the responsibility of a specific unit, like the Community Relations Bureau. Officers should understand how to advance community policing principles through their routine interactions with the public.

11. Information Systems and Technology

This area is among the most challenging based on the technical expertise necessary to plan and implement effective systems, the need for ongoing resource investments, and its interconnection with all areas of the Reform Agreement. Under the Information Systems and Technology Action Plan, PRPD agreed to develop policies and procedures, equip officers and vehicles with appropriate communications equipment, establish collaborative agreements on interoperability and access to criminal justice information, establish internal controls on the use of computers and information systems, develop a criminal information warehouse, conduct related training, implement information systems to support other substantive areas of the Reform Agreement, and complete various self-evaluation activities.

PRPD has completed many policies in this area. PRPD is also developing manuals and other procedures to standardize processes across PRPD. PRPD is implementing a computer-aided dispatch (CAD) system that will support the management and allocation of resources, as well as improve service delivery to the public. The CAD system is still in the early phases of implementation. PRPD has acquired equipment to expand user access to its information systems and has continued to build its infrastructure to automate many business processes required by the Reform Agreement.

During the capacity-building period, PRPD should complete the following activities:

- *Complete implementation of CAD in the Zones of Excellence:* PRPD should continue to implement and test CAD in the Zones of Excellence.
- *Implement computer security protocols:* PRPD should continue to implement protocols to safeguard its information systems, while it expands access to PRPD personnel.
- *Improve access to criminal justice information:* PRPD should continue to improve access to criminal justice information, such as NCIC, to promote officer and public safety.
- *Strengthen governance and authority of Information Technology professionals:* PRPD should ensure that appropriate personnel have sufficient authority, resources, and support to plan, implement, and maintain new information systems and technology to advance specific requirements of the Reform Agreement, including building the early intervention system, collecting data on stops and arrests, tracking force reviews and investigations, and automating human resources.